

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P67265PC00	FOR FURTHER ACTION	
See Form PCT/IPEA/416		
International application No. PCT/IB2004/000160	International filing date (day/month/year) 21.01.2004	Priority date (day/month/year) 21.01.2003
International Patent Classification (IPC) or national classification and IPC B65D83/62, B65D83/64		
Applicant PACKAGING TECHNOLOGY HOLDING S.A.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <ul style="list-style-type: none"> a. <input type="checkbox"/> <i>(sent to the applicant and to the International Bureau) a total of sheets, as follows:</i> <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> <i>(sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</i> 		
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the opinion <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application 		
Date of submission of the demand 20.08.2004	Date of completion of this report 25.04.2005	
Name and mailing address of the International Preliminary Examining Authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Bridault, A Telephone No. +31 70 340-3224	



**INTERNATIONAL PRELIMINARY REPORT
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International application No.
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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-16 as originally filed

Claims, Numbers

1-26 as originally filed

Drawings, Sheets

1/5-5/5 as originally filed

a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	5, 7-9, 11-13, 18, 22, 23, 25
	No:	Claims	1-4, 6, 10, 14-17, 19-21, 24, 26
Inventive step (IS)	Yes:	Claims	18, 22
	No:	Claims	1-17, 19-21, 23-26

Industrial applicability (IA)	Yes:	Claims	1-26
	No:	Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

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Re Item V.

1 The following documents are referred to in this communication:

D1: DE 42 41 074 A
D2: FR-A-1 463 058
D3: US-A-3 561 644
D4: GB-A-1 268 569
D5: FR-A-1 303 048
D6: US-A-3 140 802

2 Document D1 discloses (the references in parenthesis applying to this document):

A pressure package system for providing a working pressure on a fluid included in a pressure package, the system being provided with a pressure package in which a product chamber (1) is included for holding the fluid and in which a working pressure chamber is included for keeping a propellant at the working pressure, the system being further provided with a pressure controller (5) and a high-pressure chamber (4) connected with the pressure controller for keeping the propellant in supply at a relatively high pressure, the system being further arranged to supply the propellant from the high-pressure chamber to the working pressure chamber with the aid of the pressure controller on the basis of a reference pressure, for maintaining the working pressure in the working pressure chamber, wherein the pressure package system is further provided with a wall (3) which is designed to be movable relative to the pressure controller, a first side of the wall bounding the working pressure chamber at least partly and a second side of the wall, facing away from the working pressure chamber, bounding the product chamber at least partly.

It should be noted in particular that the system disclosed in figure 4 of D1, which shows a diffusion member (6) pushed by a spring (12) can be considered as a pressure controller, since the diffusion area of the diffusion member varies in response to the pressure on the surface (10) dropping. Since the pressure in the working pressure chamber depends on the diffusion rate, the system effectively controls said pressure.

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Furthermore, the system of D1 can be said to work on the basis of a reference pressure, since the exposed diffusion area depends on the elasticity of the spring, i.e. the spring will extend only when a given pressure threshold is crossed.

2.1 INDEPENDENT CLAIM 1

As can be seen from the above, document D1 discloses in combination all the features defined in independent claim 1. Hence the subject-matter of this claim is not new (Article 33(2) PCT).

3 DEPENDENT CLAIMS 2-17, 19-21, 23-26

3.1 Dependent claims 2-4, 6, 10, 14-17, 19-21, 24 and 26 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty (Article 33(2) PCT), because their additional features are also known from D1.

3.2. Dependent claims 5, 7-9, 11-13, 23 and 25 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step (Article 33(3) PCT), for the following reasons:

- the additional features of claims 5 and 7 are known from D2 (fig. 8);
- the additional features of claims 8 and 23 are known from D3 (fig. 1);
- the additional features of claims 9 and 11 are known from D2 (fig. 1);
- the additional features of claim 12 are known from D4 (page 5, line 119);
- the additional features of claim 13 are known from D5 (figures);
- the additional features of claim 25 are known from 6 (column 3, line 5).

4 DEPENDENT CLAIMS 18, 22

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The combination of the features of dependent claims 18 and 22 are neither known from, nor rendered obvious by, the available prior art. The reasons are as follows:

- no prior art document suggests to have the high-pressure chamber integral with the rest of the dispenser, as in claim 18. On the contrary, the prior art teaches that the high-pressure chamber is advantageously a separate element;
- the available prior art is silent as to the direction of expansion of the balloon (claim 22).